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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91204456
Party	Defendant nTrust Corp.
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Attachments	Opposition to Motion to Reopen.pdf(329524 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Intrust Financial Corporation, Opposer, v. nTrust Corp., Applicant.	)	Opposition No. 91204456 Application Serial No.: 85/250992 Mark: NTRUST

Honorable Commissioner of Trademarks
2900 Crystal Drive
Arlington, VA 220235-14

APPLICANT'S OPPOSITION TO

OPPOSER'S MOTION TO REOPEN TESTIMONY PERIOD

I. INTRODUCTION

Opposer Intrust Financial Corporation is not entitled to reopen its now-closed testimony period because the new evidence it seeks to introduce has *no* probative value to this proceeding. That is because the new (and only) purported evidence of actual confusion involves a *vendor*, not a *customer.* As a matter of law, such evidence is irrelevant and there is no need to re-open Opposer's testimony period for such inadmissible evidence.

Opposer is a chartered bank based in Wichita, Kansas, which operates mostly in Kansas; it owns registrations for a number of marks containing the word INTRUST. Applicant nTrust Corp. is a Philippines company with operations in Vancouver, British Columbia, Canada; it provides an online peer-to-peer money transfer service (a service which is routinely provided by non-banks). This proceeding is a dispute over Applicant's application to register the mark NTRUST for its intended services in the United States. Although Applicant has begun

operations in other countries, it does not yet offer its services to consumers in the United States.[1]

This Opposition proceeding began two years ago, in March 2012. The parties stipulated to various extensions and suspensions in order to facilitate settlement discussions. After no resolution was reached, the proceeding moved to the trial phase - beginning with Opposer's testimony period which closed on March 27, 2014. Opposer took depositions of four of its own witnesses; Applicant's CEO and its counsel travelled respectively from Vancouver, Canada and Los Angeles, California to Wichita, Kansas the week of March 24 for those depositions.

The case then turned to Applicant's testimony period, and on April 8, 2014, Applicant served its Pretrial Disclosures. Opposer then filed this motion seeking to reopen its testimony period to introduce evidence of an April 7, 2014 email from one of its *vendors*, FIS Global, which it contends demonstrates actual confusion between the marks at issue. FIS is a service provider to many financial services companies,[2] and in fact provides services to both Opposer and Applicant. It is *not* a customer of the parties' services. (Indeed, Applicant's services are intended for individual consumers, not large companies like FIS). In an April 7, 2014 email (Exhibit A to Opposer's Motion), an employee at FIS raised a question about who owned an image file for "nTrust" artwork that was uploaded to its file transfer protocol (FTP) site for FIS to use to create payment cards. In its supplemental response to Applicant's interrogatory no. 9, Opposer has identified seven potential witnesses (from its company, FIS, and Applicant) with knowledge relevant to this evidence, and announced (in supplemental response to interrogatory

[1] Applicant's website (ntrust.com) is accessible from the United States, but a user from the United States receives a home page prompt stating "nTrust is not yet available in your country."

[2] FIS is a vendor for numerous companies in the financial services sector. On the "About FIS-Our Company" page of its website (at www.fisglobal.com/abousfis-ourcompany), FIS touts itself as "a leading global provider of technology and services to the financial services industry, serving more than 14,000 clients in over 100 countries." It provides (among other things, software, services and technology for financial institutions).

no. 15) intention to take trial depositions of four witnesses (located in Wichita, Kansas and at FIS' location in Romeoville, Illinois) related to this topic. *See* Ex. 1 hereto, Opposer's Supplemental Responses to Interrogatories nos. 9 and 15.[3]

But as the law makes clear, that evidence is irrelevant because the supposed confusion (if there even was any) does not involve a member of the consuming public - *i.e.,* a customer or potential customer for either Opposer's services or Applicant's services. Consumers will never be presented with a similar situation, whereby they receive an image file from one of the parties to perform services for that party. Thus, the incident about a *vendor/service provider* is not relevant to whether the reasonable and prudent *consumer* is likely to be confused by the parties' use of their respective marks. Moreover, the triggering April 7, 2014 email does not even prove that the FIS employee was actually confused; it instead only shows a question asked about who owns the artwork (a clarifying question any good vendor should ask).

Opposer understandably wants to introduce this new evidence because, as it admits, it has *no* other evidence of actual confusion – even though this proceeding has been pending for more than two years. But even though this evidence is newly discovered, it is irrelevant, would be rejected as inadmissible, and thus does not warrant the added burden of re-opening an already-closed testimony period. Applicant has an interest in a speedy and inexpensive determination. Having waited over two years now in this proceeding and having already travelled to Wichita, Kansas for trial depositions, Applicant should not have to endure further delay, and the added legal fees and costs of travelling to multiple cities for depositions of potentially *seven* additional

[3] On April 29, 2014, Opposer's counsel emailed the Supplemental Responses to Interrogatories to counsel for Applicant, and indicated that Opposer has not yet verified the Supplemental Responses. As of this date, Applicant has not yet received a signed verification for the Supplemental Responses to Interrogatories. As a result, Applicant includes with Exhibit 1 hereto the explanatory email from Opposer's counsel concerning the lack of a signed verification.

witnesses identified by Opposer related to this new evidence, when that evidence that has no probative value. The Board should therefore deny Opposer's Motion.

II. THE BOARD SHOULD NOT RE-OPEN OPPOSER'S TESTIMONY PERIOD.

Motions to re-open a testimony period are routinely denied. *See, e g., L.C. Licensing Inc. v. Berman*, 86 USPQ2d 1883, 1887 (TTAB 2008) (motion denied because evidence not relevant to show abandonment); *Harjo v. Pro-Football, Inc.* 45 USPQ2d 1789, 1790 (motion denied because evidence cumulative); *Chanel, Inc. v. Mauriello*, 2010 WL 3873650 (TTAB 2010) (motion denied because evidence cumulative). Indeed, Opposer's Motion does not cite a single case in which the Board granted a request to re-open a testimony period.

Even when there is newly discovered evidence which could not have been discovered earlier, there is no automatic right to re-open the testimony period. *See, e.g., Harjo*, 45 USPQ2d at 1790 ("[T]he mere fact that the evidence could not have been discovered earlier does not, in and of itself, mean that the motion must be granted."); *see also L.C. Licensing*, 86 USPQ2d at 1886. Instead, the Board must still consider the factors identified in Opposer's Motion, namely: (1) the nature and purpose of the evidence sought to be brought in, (2) the stage of the proceeding, and (3) prejudice to the nonmoving party. *L.C. Licensing,* 86 USPQ2d at 1887 (quoting Trademark Board Manual of Procedure (TBMP) §509.01(b)(2)). But while Opposer correctly identifies the factors, its assessment of those factors is incorrect.

A. Opposer's New Evidence is Irrelevant

Opposer seeks to reopen the testimony period because it apparently now has a single instance of possible confusion. But relevant evidence of actual confusion only refers to the confusion caused in the reasonable and prudent *consumer. Platinum Home Mortgage v. Platinum Financial Group,* 149 F.3d 722, 729 (7th Cir. 1998); *see also American B.D. Co. v.*

N.P. Beverages, Inc., 213 USPQ 387 (TTAB 1981) ("[T]he ultimate test is the factual question of the likelihood of confusion by the ordinary prudent consumer. . . ."). Even assuming the new evidence shows confusion on behalf of a vendor or service provider working for both parties, that evidence is not relevant to this proceeding because it does not show confusion by a consumer of either party's services. *See, e.g., id.* ("[E]vidence of actual confusion must refer to the confusion of reasonable and prudent consumers, and not confusion among sophisticated members of the mortgage service industry."); *Jordache Enterprises, Inc. v. Hogg Wyld, Ltd.*, 625 F.Supp. 48, 54 (D. New Mexico 1985) ("Even if it had constituted admissible evidence, it would not have constituted evidence of actual confusion by consumers in the marketplace, but rather confusion by industry professionals. Likelihood of confusion on the part of such industry professionals does not establish trademark infringement.").

In *Signeo USA, LLC v. SOL Republic, Inc.*, the plaintiff sought to introduce evidence showing actual confusion caused by the defendant's trademark among retail associates selling both parties' products and among industry players seeking to find defendant's CEO at plaintiff's booth during a tradeshow. 2012 WL 2050412, *7 (N.D. Cal. 2012). While acknowledging there was actual confusion experienced by the retail associates and industry players, the Court held that that such confusion was not relevant to whether the purchasing consumer would be confused, and therefore did not "assign much, if any, weight to [plaintiff's] evidence of actual confusion." *Id.* ("[N]otwithstanding Signeo's evidence of repeated instances involving industry players and retail associates who have demonstrated confusion, Signeo presents little evidence regarding the purchasing consumer—the necessary focus of the confusion inquiry.").

Evidence without significant probative value does not justify reopening the testimony period. *See, e.g. Harjo* 45 USPQ2d at 1790. In *Harjo*, the petitioners sought to re-open their

testimony period in order to introduce new evidence. But the Board determined that the new evidence would have been cumulative and redundant of evidence already introduced during the testimony period. *Id*. Thus, while the Board acknowledged that the evidence was not previously available, it had no significant probative value and would not cause a different result or affect the outcome of the case, and therefore did not justify reopening the petitioners' testimony period. *Id.*; *see also L.C. Licensing*, 86 USPQ2d at 1887 (motion denied because evidence was not relevant).

The result should be the same here. Opposer's proffered new evidence relates to email correspondence from a FIS employee —a vendor working for both parties— not a consumer of either parties' services.[4] The email was sent from a FIS employee, asking if Opposer was the owner of the "attached image file" – which is artwork for creation of "nTrust" payment cards for Applicant. This is not confusion by any consumer or potential consumer.

Nor is this confusion related to services that Opposer provides to its customers (*i.e.,* banking services, whether provided to an individual customer or a business customer). The employee at FIS asked who the attached image file belonged to ("Design received art for the attached but we do not know to whom it belongs."). This is obviously a clarifying inquiry so that FIS could perform its services for the correct client. This is not even proof that anyone was confused. Nor is it confusion *in the marketplace* between the services actually offered by Opposer or the services intended to be offered by Applicant. This is a "behind the scenes" vendor in a unique situation (serving multiple financial services companies, including both Opposer and Applicant), in which consumers of Opposer and Applicant's services would never

[4] Applicant does not know whether FIS is a customer of Opposer's banking services (which is unlikely). But even if FIS was in fact a customer of Opposer's banking services, the supposed confusion by an FIS employee occurred in connection with FIS' role as a vendor/service provider to Opposer – not in any customer role.

find themselves. It cannot be evidence of any confusion in the marketplace concerning Applicant's intended use of its NTRUST mark for any services claimed in its application or as compared with any services identified in Opposer's registrations at issue. Accordingly, the supposed vendor confusion (which happened only "behind the scenes") over ownership of the image file is not probative of whether a consumer would be confused by Applicant's use of its NTRUST mark in the marketplace.

Because the proffered evidence is not relevant as a matter of law and has no probative value (or very little, at best), it would be later rejected. Federal Rule of Evidence 401 defines evidence as relevant (and therefore admissible under Rule 402) only if "it has any tendency to make a fact more or less probable than it would be without the evidence" and "the fact is of consequence in determining the action." *See* 37 CFR § 2.122(a) ("The rules of evidence for proceedings before the Trademark Trial and Appeal Board are the Federal Rules of Evidence….") Because the proffered new evidence does not satisfy the test for relevance, it would not be admissible. *See, e.g., Vanity Fair Mills, Inc. v. T. Eaton Co.,* 234 F.2d 633, 639 (2d Cir.1956) (decisions of foreign courts are irrelevant and inadmissible); *Puritan-Bennet Corp. v. Penox Tech. Inc.*, 2004 WL 866618, * 41 (S.D. Ill. 2004) (summary judgment granted after rejecting irrelevant evidence); *Kargo Global, Inc. v. Advance Magazine Publishers, Inc.*, 2007 WL 2258688 * 13 (S.D.N.Y. 2007) (reports held to be irrelevant and therefore inadmissible) . There is no reason to reopen Opposer's testimony period to allow for evidence that is otherwise inadmissible. (Alternatively, the new evidence has such little probative value that even if technically relevant, it should still be excluded under Federal Rule of Evidence 403 because its probative value is substantially outweighed by the risk of confusing the issues, undue delay, and wasting time).

B. If Opposer's testimony period is re-opened, Applicant will suffer prejudice at this late stage of the proceeding and given its desire to launch its U.S. business.

Applicant is entitled to a speedy and inexpensive determination of the proceedings. *Harjo*, 45 USPQ2d at 1790. In *Harjo*, the Board—in addition to finding the newly discovered evidence was not significantly probative—also held that reopening the testimony period after the parties had years to take discovery and enter testimony would severely prejudice the respondent's right by causing further delay and cost. *Id.*

If the testimony period is reopened to submit the new evidence, Opposer announced that it intends to take at least depositions of four witnesses (Thomas Morrison from its own company, and three FIS employees – Debbie Canfarelli, Geno Reed, and Tammy Pazdro). *See* Ex. 1 hereto, Supplemental Response to Interrogatory no. 15. If that were not enough, it has identified *seven* total witnesses related to the issue and thus the number of added depositions could go even higher. *Id.*, Supplemental Response to Interrogatory No. 9(c). Those anticipated and potential depositions would require travel to Wichita, Kansas (for Opposer's witnesses) and to Romeoville, Illinois (for FIS' witnesses), and Vancouver, Canada (for the identified witness from nTrust). These additional depositions would result in significant delay of these proceedings, as well as substantially increasing the legal expense and cost to Applicant (especially given the travel). These additional expenses would be in addition the amounts already incurred by Applicant to have its CEO and counsel travel to Wichita, Kansas (from Vancouver, Canada and Los Angeles, California) to attend trial depositions of four Opposer witness already taken in March 2014.

In addition to the cost to Applicant, the additional depositions would further delay disposition of this matter during a crucial time as Applicant plans for launch of its services in the United States. This matter has already been pending for over two years, with the parties

suspending for settlement discussions multiple times. While Applicant made numerous efforts and suggestions to explore settlement, no resolution was reached. Thus, Applicant now wishes to proceed to have the Board rule on the merits, and the parties completed Opposer's initial testimony period. Since this proceeding has been pending, Applicant successfully launched its services in other countries and is now prepared to begin steps to introduce its services into the United States (including by obtaining appropriate licenses from government agencies). Applicant is entitled to an expeditious ruling on this matter without further delay so that it can appropriately plan its United States business (including knowing whether it can obtain a registration for its NTRUST mark in the U.S., as it has obtained in other countries such as Canada). If the testimony period is re-opened for Opposer, disposition of this case will be further delayed and prolong the business uncertainty for Applicant.

Thus, the prejudice in cost and time to Applicant if the testimony period is reopened outweighs the zero probative value of Opposer's new evidence. This factor therefore weighs in favor of denying Opposer's motion.

III. CONCLUSION

Because Opposer's new evidence is not relevant to determining whether there is a likelihood of confusion among consumers of the parties' respective services, Opposer's testimony period should not be reopened. Applicant therefore respectfully requests that the Board deny Opposer's Motion to Reopen its Testimony Period, and reset the closing date for Applicant's testimony period to be approximately 45 days from the date of ruling on this motion.

Dated: May 12, 2014

Davis Wright Tremaine LLP
Attorneys for Applicant nTrust Corp.

By: s/James D. Nguyen

James D. Nguyen
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CERTIFICATE OF SERVICE

This certifies that a true and correct copy of this Applicant's Opposition to Opposer's Motion to Reopen Testimony Period to Introduce Newly Discovered Evidence is being served by electronic mail and by depositing the same in the United States mail, first class, postage prepaid, and directed to Opposer's attorneys, William P. Matthews and Michael J. Norton of Foulston Siefkin LLP at 1551 N. Waterfront Parkway, Suite 100, Wichita Kansas 67206 on May 12, 2014.

_____/James D. Nguyen/_____
James D. Nguyen

EXHIBIT 1

From:	Pinkston, Rebekah
To:	Nguyen, Jimmy
Cc:	Norton, Michael
Subject:	Intrust v. Ntrust - Supplemental Interrogatories
Date:	Tuesday, April 29, 2014 1:49:19 PM
Attachments:	2014-04-24 Intrust Supp Answers to ROGS (Not Signed).pdf

Jimmy,

Attached are Intrust's Supplemental Responses to Interrogatories. Tom Morrison has been out of the office, so he has not been able to send us the signed verification yet. We will forward the verification to you after we receive it – which should be by the end of this week. Please let me know if you have any questions.

Thanks,
Beka

Rebekah L. Pinkston
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Intrust Financial Corporation, Opposer, v. nTrust Corp., Applicant,	)	Opposition No. 91204456 Application Serial No.: 85/250992 Mark: NTRUST

OPPOSER INTRUST FINANCIAL CORPORATION'S SUPPLEMENTAL RESPONSES TO INTERROGATORIES

COMES NOW Opposer Intrust Financial Corporation ("Intrust"), without waiving its prior objections, and for its supplemental responses to Applicant's Interrogatories, states the following:

GENERAL OBJECTIONS

1. Intrust's responses to the Interrogatories are based on the information available as of the date indicated on the last page, and Intrust reserves the right to supplement, amend, and/or withdraw these responses should future investigation indicate that such supplementation, amendment, and/or withdrawal is necessary.

2. Intrust objects to the Interrogatories to the extent that they seek information that is not relevant to a claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence.

3. Intrust objects to the Interrogatories to the extent that they purport to impose upon Intrust obligations beyond those authorized by TBMP Rule 402.01 or other applicable law.

4. Intrust objects to the Interrogatories to the extent they call for information protected by the attorney-client privilege, the attorney work product doctrine or any other protection, privilege, or immunity recognized by law.

SUPPLEMENTAL RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 8

For each of Opposer's Marks, state all facts upon which You claim that Applicant's Mark is likely to cause confusion with that specific Opposer Mark.

ANSWER:

Applicant's services alleged as intended to be offered under Applicant's Mark and/or as currently being offered under Applicant's Mark are identical to or are very closely related to the services offered under Opposer's Marks, and Opposer and Applicant both are and/or will be engaged in the offering, sale, rendering, and promotion of their respective services through the same channels of trade and to the same general class of purchasers, users, or consumers. Applicant's Mark is a simulation and colorable imitation of, and so resembles Opposer's Marks as to be likely, when applied to Applicant's proposed services, to cause confusion or mistake or to deceive consumers resulting in damage and detriment to Opposer and its reputation. Further, Applicant's Mark is likely to cause confusion with Opposer's Marks due to phonetic and visual similarity and the similarity of the services and products offered by Applicant and the channels of trade used by Applicant.

SUPPLEMENTAL ANSWER:

Additionally, an instance of actual confusion has in fact already occurred between Opposer's Mark and Applicant's Mark, as further detailed in Opposer's Answer to Interrogatory No. 9.

INTERROGATORY NO. 9

For each of Opposer's Marks, describe all instances of actual confusion that You contend have occurred between that specific Opposer Mark and Applicant's Mark - specifically stating, with respect to each alleged instance of actual confusion:

a. the date of each instance of alleged actual confusion;

b. the nature of actual confusion that alleged occurred;

c. the identity of all persons or entities involved in such instance of alleged actual confusion; and

d. the identity of all products or services involved in such instances of alleged actual confusion.

ANSWER:

Opposer is unaware of instances of actual confusion occurring to date.

SUPPLEMENTAL ANSWER:

a. An instance of actual confusion between Opposer's Mark, INTRUST, and Applicant's Mark, NTRUST, occurred between April 3, 2014, and April 7, 2014.

b. On April 3, 2014, FIS Global—the company that produces Opposer's debit, credit, payroll, and stored-value cards—received three electronic files with nTRUST Cloud Money Card graphics bearing Applicant's Mark. The graphics were apparently uploaded to an FIS File Transfer Protocol ("FTP") site, or other online site used by FIS, by Wayne Chen, an employee of Applicant. Because of the similarity of Applicant's Mark, as shown on the uploaded graphics, and Opposer's Marks, one or more employees of FIS were confused as to the

ownership of the uploaded graphics. As a result, an employee of FIS forwarded one of the uploaded graphics to Opposer on April 7, 2014, thinking the graphics belonged to Opposer.

c. The persons involved in the instance of actual confusion, or have knowledge of the instance, can be found in the documents Bates-labeled O-05490, O-05493, O-05494, and include the following:

1. Debbie Canfarelli
Client Services Manager, Card Personalization
FIS Global
1165 Arbor Drive
Romeoville, Illinois, 60446
Business: 630-378-6612

2. Geno Reed
Senior Designer
FIS Global
1165 Arbor Drive
Romeoville, Illinois, 60446
Business: 630-378-6646

3. Tammy Pazdro, who is apparently an employee of FIS and works for Geno Reed.

4. Thomas Morrison
Division Director – Payments, Technology, and Operations
Intrust Bank

5. Jerry Chandler
Manager – Bankcard Systems, Operations, and Merchants
Intrust Bank

6. Jennie Githens
Bankcard Systems Specialist
Intrust Bank

7. Wayne Chen
nTRUST

d. The product involved in such instance of actual confusion was the nTRUST Cloud Money Card.

INTERROGATORY NO. 15

Identify each person whom You expect to call as a witness in this proceeding, whether as an expert witness or otherwise, and for each person, state his/her background and qualifications (if applicable), the subject matter upon which he/she is expected to testify, the substance of the facts and opinions to which he/she is expected to testify, and the grounds for each opinion that he/she is expected to give.

ANSWER:

1. Lisa Elliott: As Marketing and Advertising Manager, Ms. Elliott may testify regarding Intrust's marketing strategy and channels, customer base, brand awareness, and general retail product information.
2. Linda Cullinan, Senior Manager Bankcard Marketing and Promotions, may testify with respect to marketing strategy and channels for payment card products and merchant services.
3. Thomas Morrison, Division Director – Payments, Technology, and Operations, has knowledge of funds transfer methods offered by Intrust and Intrust's online banking services.
4. Lyndon Wells, Division Director – Public Affairs, may testify with respect to Intrust's marketing strategy and channels, customer base, brand awareness, and general retail product information.
5. Susan Pauly, Senior Manager – Internal Reporting, may testify regarding advertising and promotional costs and Intrust's gross revenue.

6. Mark Lebbin, Manager of E-Commerce, may testify regarding Intrust's marketing strategy and channels and general retail product information.
7. Kimberly Klocek, Senior Manager – Information Reporting and Business Intelligence, may testify concerning the number of Intrust customers.

SUPPLEMENTAL ANSWER:

3. In addition to the above, Thomas Morrison may testify regarding an instance of actual confusion that occurred between Applicant's Mark and Opposer's Mark in April 2014.
8. Debbie Canfarelli, Client Services Manager at FIS Global, may testify regarding an instance of actual confusion that occurred between Applicant's Mark and Opposer's Mark in April 2014.
9. Geno Reed, Senior Designer at FIS Global, may testify regarding an instance of actual confusion that occurred between Applicant's Mark and Opposer's Mark in April 2014.
10. Tammy Pazdro, employee of FIS who works for Geno Reed.

FOULSTON SIEFKIN LLP
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Telephone: 316-291-9743
Fax: 866-346-2031

Michael J. Norton, KS #18732
William P. Matthews, KS #18237
mnorton@foulston.com
wmatthews@foulston.com
Attorneys for Opposer

CERTIFICATE OF SERVICE

I certify that on this 29th day of April, 2014, a copy of **Opposer Intrust Financial Corporation's Supplemental Responses to Interrogatories** was delivered via email to counsel of record as follows:

James D. Nguyen
JimmyNguyen@dwt.com
DAVIS WRIGHT TREMAINE LLP
865 S Figueroa Street, Suite 2400
Los Angeles, CA 90017
Attorneys for Applicant

Michael J. Norton, KS #18732

VERIFICATION

Intrust Financial Corporation,	)	
	)	
Opposer,	)	
	)	Opposition No. 91204456
v.	)	Application Serial No.: 85/250992
	)	Mark: NTRUST
nTrust Corp.,	)	
	)	
Applicant,	)	
	)	

STATE OF KANSAS)
) SS:
COUNTY OF SEDGWICK)

Thomas Morrison, of legal age, being duly sworn upon oath, states:

That I am the Division Director of Payments, Technology, and Operations for Opposer Intrust Financial Corporation and am authorized to make this verification; that I have read the contents of the foregoing Supplemental Answers to Interrogatories and know the contents thereof; that the matters stated in the foregoing Supplemental Answers are not all within my personal knowledge and that I am informed and believe that there is no single officer of Intrust Financial Corporation who has personal knowledge of all such matters; that the facts stated in the foregoing Supplemental Answers have been assembled by authorized employees and counsel of Intrust Financial Corporation; that I am informed by said employees and counsel that the facts stated in the foregoing Supplemental Answers are true and correct; and that subject to the limitations as set forth herein, the foregoing Supplemental Answers are true and correct to the best of my knowledge, information and belief.

Intrust Financial Corporation

_____
Thomas Morrison
Division Director – Payments, Technology, and Operations

SUBSCRIBED AND SWORN TO before me this _____ day of April, 2014.

_____
Notary Public

My Appointment Expires:
_____